

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 24428 of 2007(G)

PETITIONER:

SHAJU JACOB, S/O.JACOB, AGED 42 YEARS,
VENGAPPILLIL HOUSE, PUTHIRUTHARA,
PAZHAYANNUR, THRISSUR.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

1. THE SUPERINTENDENT OF POLICE,
THRISSUR DISTRICT.
2. THE CIRCLE INSPECTOR OF POLICE,
CHELAKARA, THRISSUR.
3. THE SUB INSPECTOR OF POLICE,
PAZHAYANNUR POLICE STATION,
THRISSUR.
4. JOOBIN YOUSUFF, S/O.YOUSUF, JUBIN
MANZIL, KUMBALAKODU, POTTANKODU P.O.,
PAZHAYANNUR VILLAGE, THALAPILLY TALUK.
5. YOUSUF, JUBIN MANZIL, KUMBALAKODU,
POTTANKODU P.O., PAZHAYANNUR VILLAGE,
THALAPPILLY VILLAGE.

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**6. HASSANAR, S/O.ABDUL REHMAN,
PADINJARETHIL, PARACKAL,
KUMBALAKODU P.O., PAZHAYANNUR.**

**R4 BY ADVS. SRI.K.B.MOHANDAS
SRI.LELLULAL T.G.THUNDATHIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/10/2007 ALONG WITH WPC NO. 26545 OF 2007, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C) NO: 24428/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT IN WPC NO. 11882/05 OF THIS COURT DT. 26/4/05.

EXT.P2. COPY OF THE COMPLAINT DT. 17/7/07 MADE BEFORE THE R3.

EXT.P3. COPY OF THE CR. NO. 290/07 OF PAZHAYANNUR POLICE STATION.

EX.T.P4. COPY OF THE COMPLAINT DT. 30/07/07 MADE BEFORE THE R1 WITH RECEIPT.

RESPONDENT'S EXHIBITS

EXT.R4A. COPY OF THE SALE DEED NO. 2183/07 DT. 13/7/07 OF PAZHAYANNUR SRO.

EXT.R4B. COPY OF THE SALE DEED NO. 1932/97 DT. 20/08/07.

EXT.R4C. COPY OF THE FIR IN CR. NO. 291/07 OF PAZHAYANNUR POLICE STATION.

EXT.R4D. COPY OF THE CR.MC NO. 2001/07 OF SESSIONS COURT, THRISSUR.

EXT.R4E. COPY OF THE ORDER DT. 2/08/07 IN CRL. MC NO. 2001/07 OF THE SESSIONS COURT, THRISSUR.

EXT.R4F. COPY OF THE PLAINT IN OS NO. 385/07 OF THE MUNSIFF COURT, VADAKKANCHERRY.

EXT.R4G. COPY OF THE COMPLAINT DT. 26/7/07 MADE BY THE R5 TO THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM AGAINST THE PETITIONER AND HIS BROTHERS.

EXT.R4H. COPY OF THE COMPLAINT DT. 09/08/07 MADE BY THE R4 AGAINST THE PETITIONER ND OTHERS TO S.I OF POLICE PAZHAYANNUR POLICE STATION.

EXT.R4(I). COPY OF THE PETITION REGISTER SHOWING ENTRIES REGARDING PETITION NO. 46/05, 47/05 OF PAZHAYANNUR POLICE STATION.

True copy

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K.BALAKRISHNAN NAIR &
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NOS. 24428 & 26545 /2007

Dated 10th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

W.P.(C) No.24428/07:

The petitioner and his two brothers are the owners of a double storeyed building. He is residing with his family in the first floor and is running a margin-free shop in one of the rooms in the ground floor. One Mr.Mani @ Balasubramanyan purchased one of the shop rooms bearing No.DD1/349D. The said person was running a provision store there. Regarding the obstruction caused to the passage of the building by the said purchaser of the shop room, there was one writ petition before this Court [W.P.(C) No. 11882/2005]and a suit before the Munsiff's Court, Wadakkancherry (O.S.No.441/2005). It appears, the said Mr.Balasubramanyan has assigned the shop room in favour of the 4th respondent, who started business in the said room on 17.7.2007. When the said respondent tried to trespass into the property of the petitioner, he objected to the same. Thereupon the said respondent abused and threatened the petitioner. So, he filed Ext.P2 complaint before the 2nd respondent Police Officer. On the very same night, respondents 4 and 5

trespassed into the residential house of the petitioner and tried to outrage the modesty of his wife. Thereupon, a complaint was filed before the Pazhayannur Police against respondents 4 and 5 and a crime was registered against them. Ext.P3 is the F.I.R in that crime. While so, the 4th respondent, like his predecessor-in-interest, caused obstruction in the verandah belonging to the petitioner. So, he filed O.S.No.385/2007 before the Munsiff's Court, Wadakkancherry. Even thereafter, the respondents 4 and 5 continued to harass the petitioner and his family members. Therefore, the petitioner's wife has preferred Ext.P4 representation before the District Superintendent of Police. Thereafter, this writ petition is filed, seeking the following relief:

“(i) issue a writ of mandamus or any other appropriate writ, order or direction to the respondents 1 to 3 to provide adequate police protection to the life of the petitioner and his family members from the attack and threat of the respondents 4 to 6 and their men forthwith.”

2. The party respondents have filed a counter affidavit, denying the allegations against them. According to them, they are being threatened by the petitioner. The petitioner's elder brother is a Police Constable. Using his influence the petitioner is harassing them, it is submitted.

3. The learned Government Pleader upon instructions submitted that the 5th respondent is a retired reserve S.I of Police. Though, the parties were called to the Police Station, the said respondent is not co-operating

with the police.

4. The dispute between the parties is a civil dispute, which has to be resolved by the civil court. Admittedly, the petitioner has already moved the civil court for appropriate reliefs. In view of the above position, we feel that the police need not be asked to interfere in this dispute in favour of one side or the other. Needless to say, if any cognizable offence is reported, the police shall take action in accordance with law.

W.P.(C) No.26545/2007:

5. In view of the judgment in W.P.(C) No.24428/2007, no further orders are required in this writ petition. The said judgment will govern this case also.

The Writ Petitions are disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/